

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION

IN RE:	§	CHAPTER 11
	§	
GREATER HOUSTON	§	CASE NO. 21-60066
TRANSPORTATION COMPANY, ET	§	(Administrated Jointly under Case No.
AL	§	21-60065)
	§	
Debtor(s)	§	

**MOTION FOR RELIEF FROM THE AUTOMATIC STAY OF 11 U.S.C. §362**

THIS IS A MOTION FOR RELIEF FROM THE AUTOMATIC STAY. IF YOU OBJECT TO THE GRANTING OR RELIEF FROM THE AUTOMATIC STAY, YOU SHOULD CONTACT THE MOVANT IMMEDIATELY TO TRY TO REACH AN AGREEMENT. IF YOU CANNOT REACH AGREEMENT, YOU MUST FILE A WRITTEN RESPONSE AND SEND A COPY TO MOVANT **NO LATER THAN 7 DAYS BEFORE THE DATE OF THE HEARING** AND YOU MUST ATTEND THE HEARING.

THE COPY SENT TO THE MOVANT MUST BE DELIVERED BY HAND OR ELECTRONIC DELIVERY IF IT IS SEND LESS THAN FIVE BUSINESS DAYS PRIOR TO THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE HEARING MAY BE AN EVIDENTIARY HEARING AND THE COURT MAY GRANT OR DENY RELIEF FROM THE STAY BASED ON THE EVIDENCE PRESENTED AT THIS HEARING. IF A TIMELY OBJECTION IS FILED, THE COURT WILL CONTACT A HEARING ON THIS MOTION ON **DECEMBER 7, 2021 AT 10:00 A.M.** IN COURTROOM AT 312 S. MAIN, VICTORIA, TEXAS 77901.

**TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:**

COMES NOW, Diane Perez (“Movant”) and files this its Motion for Relief from the Automatic Stay of 11 U.S.C. § 362 as follows:

**I.**

**Jurisdiction and Parties**

1. Greater Houston Transportation Company, et al, the (“Debtor”), commenced the above captioned Chapter 11 case on July 19, 2021.

2. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. § 157, 11 U.S.C. § 362, and other applicable Code provisions.

**II.**

**Request for Relief from the Automatic Stay of 11 U.S.C. § 362**

3. On or about May 17, 2016, Movant filed her Original Petition in the District Court of Harris County, Texas, in the 234<sup>th</sup> Judicial District, to recover damages for personal injuries sustained in an incident which occurred or about June 30, 2014.

4. The case number is 2016-32437 and it is styled *Diane & Ricky Perez, Plaintiffs v. Greater Houston Transportation Company d/b/a and/or a/k/a Yellow Cab Company and/or Yellow Cab, and Delwende Nikema, Defendants* (“The State Court Case”). The State Court Case is currently pending and abated due to the instant bankruptcy filing.

5. At the time of the incident subject of the litigation, non-debtor Defendant Delwende Nikiema was acting in the course and scope of his employment with Debtor Greater Houston Transportation Company.

6. The case was tried to a jury. A Final Judgment in favor of Diane Perez was entered June 10, 2021. Defendants’ filed a Motion for New Trial on July 4, 2021. However, the case has now been stayed due to the Debtor’s bankruptcy filing.

7. There is no great prejudice to the Debtor as Movant seeks to obtain a ruling on the Motion for New Trial which hopefully makes the judgment final. Movant seeks to pursue any applicable insurance, but not to pursue collection against the property of the estate other than filing of a claim in this case. There is significant hardship to Movant if Movant is denied proceeding forward as applicable insurance proceeds may hinge on first establishing liability of the Debtor. Further, Movant has a strong probability of prevailing on the merits of its claim.

8. Bankruptcy by the insured does not relieve the insurance company of responsibility. Accordingly, it is necessary to determine the amount of the claim against Debtor in order to determine applicability of any potential insurance policy and its amounts.

9. Movant requests the stay to be lifted in order to proceed with the state court litigation to obtain a ruling on the Motion for New Trial and proceed against any potentially available insurance proceeds which may only become triggered upon finality of the judgment.

10. Movant requests that the automatic stay of 11 U.S.C. § 362 be terminated “for cause” to allow Movant to exercise its rights.

11. Based upon any/or all of the foregoing, Movant requests that the automatic stay of 11 U.S.C. § 362 be terminated with regard to Movant.

12. Movant’s counsel certifies that prior to filing this Motion he conferred with Debtor’s counsel by phone. An agreed Order is anticipated.

WHEREFORE, PREMISES CONSIDERED, Movant prays for the following relief:

1. That the automatic stay of 11 U.S.C. § 362 be terminated to allow Movant to proceed with litigation in the State Court Case.
2. For all such other and further relief, general and special, legal and equitable, to which Movant may show itself justly entitled.

Respectfully submitted,

**HOOVER SLOVACEK, LLP**

/s/ Steven A. Leyh

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**ATTORNEY FOR MOVANT,  
DIANE PEREZ**

**CERTIFICATE OF SERVICE**

I hereby certify and verify that on November 11, 2021 the foregoing instrument was served via CM/ECF to all parties registered to receive electronic notice.

/s/ Steven A. Leyh

Steven A. Leyh